

Serial No. 10/028,335  
Amendment Dated August 18, 2004  
Reply to Final Office Action of May 18, 2004

### REMARKS

Applicant hereby responds to the Final Office Action mailed on May 18, 2004, of which this response is filed within the three month shortened statutory period for response. The application included claims 1-13, 15-16 and 21-22 and the Examiner rejects these claims. Upon entry of the foregoing amendments, the application includes claims 1-13, 16 and 21-22 and new claim 23. Moreover, as suggested by the Examiner, Applicant files an RCE along with this Response to enable the Examiner to fully consider the new amendments and arguments.

Applicant thanks the Examiner for the courtesies extended during the Examiner interview on August 16, 2004. As suggested by the Examiner, upon entry of the foregoing amendments, Applicant amends independent claim 1 to clarify that multiple housings are included in the method and different items are included in each housing wherein each item relates to the areas of brain development, namely security, touch, eyes, play and sound. Applicant also clarifies that the activity cards include a description of how the particular item promotes brain building of future school skills.

The Examiner objects to the proposed drawings filed on 2/23/04. Applicant asserts that the pictures of the products submitted with the previous response were merely to assist the Examiner to understand the invention and were not provided as drawing corrections or substitute sheets of drawings. As such, Applicant asserts that the objection is moot.

The Examiner rejects claims 1-13, 15-20 and 21-22 under 35 USC 112 because the Examiner asserts that no support exists for indicia to be viewed from the outside of the housing. To expedite prosecution of this application, Applicant deletes this element from the claims. As such, this rejection is now moot.

The Examiner next rejects claims 1-13, 15-20 and 21-22 under 35 USC 103(a) as being unpatentable over "Brilliant Beginnings Baby Brain Basics Birth to 12 months Parent Kit" in view of Werzberger '298. Applicant respectfully traverses these rejections. As suggested by the Examiner, upon entry of the foregoing amendments, Applicant amends independent claim 1 to clarify that different items are included in each housing wherein each item relates to the areas of brain development, namely security, touch, eyes, play and sound. Applicant also clarifies that the activity cards include a description of how the particular item promotes brain building of future school skills. As stated by the Examiner, Brilliant Beginnings does not disclose or suggest

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activity cards which link the activities to future school skills. The specification adequately supports a brain link and school link. As set forth, for example, in Figures 2 and 5-8, the activity cards include a brain link and a school link. Moreover, the specification includes, for example, at paragraph 0031: "Activity card 200 may indicate any or all of the following: . . . a brain link 216 for the activity (e.g., a description of why the activity promotes brain development, including a description of the area of the brain that is stimulated by the activity), and a school link 218 for the activity (e.g., a description of how development of the targeted capabilities may assist a child in preparing for formal education, such as attending school for example)." Moreover, as set forth in claims 21-22, the activity cards may additionally include background information about the type of activity, directions on how to specifically perform the activity, suggestions about what to say to the child, and similar activities that can also be accomplished to work on the same skills.

Applicant asserts that the activity cards including the linkage between each of the different items in the housing to the brain development and the future school skills is critical to the claimed invention. Unlike existing toy boxes or instructions on how to use toys, the presently claimed invention's indication of how the item is related to brain development and future school skills is a major motivator to caregivers to implement certain activities. Moreover, the brain development and future school skills provides scientific support for each activity such that the caregiver can justify the activities, instead of simply thinking of the activities as fun "games" to merely occupy time. Furthermore, caregivers looking to focus on certain school skills or certain areas of the brain will be aware of the particular activities to focus on.

The Examiner next rejects claim 15 under 35 USC 103(a) as being unpatentable over "Brilliant Beginnings Baby Brain Basics Birth to 12 months Parent Kit" and Werzberger '298 and further in view of Cohen '658. To expedite prosecution of this case, Applicant cancels claim 15 without prejudice to filing one or more applications including similar claims. However, Applicant submits new independent claim 23 which clarifies the electronic embodiments of this invention.

Applicant also asserts that the method and product described in the present application has enjoyed great commercial success, has met a long-felt need and has been met with overwhelming public approval which is commensurate in scope with the claims and due to the

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claimed features. In other words, as discussed with the Examiner, many books and toys exist which may help a child develop; however, the commercial success of this method and product is due to the unique multiple housings and activity cards as described in the presently claimed invention. Consumers in the educational and child development marketplace are free to choose on the basis of objective principles and the success is directly related to the merits of the invention.

The success includes, for example, an overwhelmingly positive response from not only the childcare community, but also from libraries, public schools, business leaders, private foundations, university faculty and parents. The Brain Box set is recognized as a unique product that can be used as a "stand alone" instructional tool or in conjunction with more formal training and instruction in early childhood brain development. Seventy-five complete sets are now in use throughout the greater Phoenix area. These sets were purchased for use in the Phoenix Public Library System, in 17 individual school districts, and in child daycare businesses. Faculty members in the Early Childhood Department at Arizona State University use the Brain Box sets for instructional demonstration and modeling for pre-service teacher preparation classes. Applicant currently has a pending order from two large school districts for an additional 40 sets.

The feedback received from the community about the Brain Boxes is that they are a totally new and innovative answer to the problem of making complex, neuroscientific concepts into a system of useable, easy-to-understand ideas for use by everyday caregivers. One of the instructors at ASU (Michelle Rhodes) stated the Brain Boxes are "a product that is brand new on the horizon in Early Childhood". Following a presentation to over 400 community leaders, business people and educators which featured the Brain Box system, the Applicant is now pursuing marketing the Brain Boxes to individuals and families. This product is known for the emphasis on developing the multiple brain systems within a young child. Arizona's Governor Janet Napolitano's office has also expressed an interest in the Brain Boxes for their comprehensive, instructional capabilities.

Below are a few quotes from business leaders and directors interested in the Brain Boxes:

- "The Brain Box system developed by New Directions Institute is, in the opinion of members of our organization, an exciting and unique product." "We believe this product to be not only unique, but important. We are so convinced of its value that we have committed Social

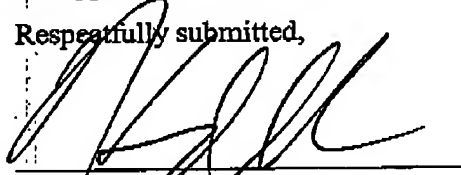
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Venture Partners' resources to aiding in its marketing and distribution." John Couleur,  
Executive Director, Social Venture Partners Arizona.

- "The fact that each box is age specific and builds developmentally on the box before it is truly inspired." Joanne McDowell, Lead Partner-SVP.
- "My new staff members can practice necessary skills and gain new understandings that they can immediately apply to our kids." Patty Phillips, Director of Beatitudes Childcare Center.

Accordingly, Applicant respectfully submits that the pending claims are in condition for allowance. No new matter is added in this Response. Reconsideration of the application is thus requested. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814. A duplicate copy of this sheet is enclosed. Applicant invites the Office to telephone the undersigned if the Examiner has any questions regarding this Response or the present application in general.

Respectfully submitted,

  
Howard Sobelman  
Reg. No. 39,038

Dated: August 18, 2004

**SNELL & WILMER L.L.P.**  
400 E. Van Buren  
One Arizona Center  
Phoenix, Arizona 85004  
Phone: 602-382-6228  
Fax: 602-382-6070  
Email: [hsobelman@swlaw.com](mailto:hsobelman@swlaw.com)